

**MEMORANDUM OF AGREEMENT
AMONG THE
CITY OF WARWICK SEWER AUTHORITY;
THE RHODE ISLAND HISTORICAL PRESERVATION & HERITAGE COMMISSION;
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;
REGARDING THE
BAYSIDE COMMUNITY SEWER PROJECT,
WARWICK, RHODE ISLAND**

WHEREAS, the City of Warwick, Rhode Island, represented by the Warwick Sewer Authority (WSA), is proposing the construction of the Bayside Community Sewer Project (Project) in order to replace septic systems and cesspools with community sewer facilities; and

WHEREAS, the Project will include the installation of approximately 44,000 linear feet of new main line sewer and 43,500 linear feet of new service main beneath existing roadways, including lateral sewers and sewer connections, to service approximately 870 individual residential properties within the Bayside Neighborhood bounded northerly by Mill Cove, southerly by Ogden Avenue, westerly by Tidewater Drive and easterly by Narragansett Bay; and

WHEREAS, the Project will result in a collateral environmental benefit to the surrounding community by reducing the bacterial and nutrient load in the Narragansett Bay through the elimination of septic systems and cesspools within the Project area; and

WHEREAS, the proposed Project represents an “undertaking” as defined in 36 C.F.R. § 800.16(y) with federal assistance from the Environmental Protection Agency (EPA) through the Clean Water Act State Revolving Fund (SRF) program; and

WHEREAS, in 1990 the EPA entered into a Programmatic Agreement with the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers whereby State Agencies implementing the (SRF) program are responsible for carrying out the requirements of the National Historic Preservation Act of 1966 (NHPA), 54 U.S.C. 300101 et seq., and 36 C.F.R. §§ 800.4 – 800.6, for all SRF Agency actions that receive EPA federal assistance; and

WHEREAS, in 1992 the EPA and the Rhode Island Clean Water Protection Agency (now Rhode Island Infrastructure Bank (RIIB)) entered into an Operating Agreement in which the RIIB is designated as the lead agency by the State of Rhode Island and will be responsible for coordinating the total management of the SRF program and will be the primary contact for dealing with the EPA on SRF issues;

WHEREAS, the RIIB is an SRF Agency and has awarded the WSA with SRF funding for this Project;

WHEREAS, pursuant to 40 C.F.R. § 35.3145, RIIB has agreed to comply with and to require all recipients of funds ‘directly made available by’ SRF capitalization grants to comply with applicable Federal authorities, including NHPA and the Archeological and Historic Preservation Act, 54 U.S.C. § 312502; and

WHEREAS, in compliance with its responsibilities under the NHPA, the EPA shall ensure, as a condition of the award of the SRF capitalization grant, that RIIB and the WSA carry out the requirements of the NHPA implementing regulations 36 C.F.R. 800 and applicable standards and guidelines; and

WHEREAS, consultation with the Rhode Island Historic Preservation and Heritage Commission (RIHPHC), as the designated State Historic Preservation Office (SHPO), will continue in order to comply with NHPA and its regulations, 36 C.F.R. 800; and

WHEREAS, the WSA, in consultation with RIHPHC and in coordination with the Narragansett Indian Tribal Historic Preservation Office (NITHPO), has conducted archaeological investigations of the Tidewater Drive Mainline Interceptor, to identify historic properties which may be affected by the Project and has identified the Mill Cove Site; and

WHEREAS, the RIHPHC, in a letter to the EPA dated April 3, 2012, confirmed an earlier determination by RIHPHC in 2007 that the Mill Cove site is an historic property eligible to the National Register of Historic Places (National Register) based upon archaeological findings; and

WHEREAS, the EPA, on February 4, 2016, determined that the Project will likely have an adverse effect on historic properties of traditional and religious significance to the Narragansett Indian Tribe (Tribe) in the area of potential effect (APE) within the Mill Cove Site, based upon the discovery of a high density of Native American features and two human burials found during an archaeological investigation of a segment of the proposed sewer main alignment within the APE in November-December 2015; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the EPA has notified the ACHP of its adverse effect determination with specified documentation, and the ACHP has declined to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the Tribe is federally recognized and has ancestral lands located within the proposed Project; and the EPA, in recognition of the government-to-government relationship between the federal agency and the Tribe, consulted with the Tribe through the NITHPO on the Project as it affects historic Properties of traditional religious and cultural significance to the Tribe; and

WHEREAS, the Tribe has provided a cultural and historical context of the Tribe's affiliation with the Project area in a document attached to this agreement as Appendix A; and

WHEREAS, the EPA, along with the WSA, has consulted with the NITHPO regarding the effects of the Project on the Mill Cove Site and has invited the NITHPO to sign this MOA; and

WHEREAS, the NITHPO has declined to participate as a signatory; and

WHEREAS, pursuant to 36 CFR § 800.13, the EPA and the WSA, in consultation with the RIHPHC and the NITHPO, have developed procedures stipulated herein to ensure that the identification and evaluation of historic properties, assessment of effects, consideration of avoidance alternatives, and development of treatment and mitigation plans (for known and unforeseen effects to previously identified historic properties and/or historic properties discovered during implementation of the Project) are properly coordinated with all phases of the design and construction of the Project; and

NOW, THEREFORE, the EPA, the WSA, and the RIHPHC Signatories agree that the Project will be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on known and as yet unidentified historic properties.

STIPULATIONS

I. HUMAN REMAINS

- A. In the event that human skeletal remains are discovered all work within the surrounding area of the find shall immediately cease and appropriate treatment under the NHPA and Rhode Island General Laws, including but not limited to Chapter 23 section 18, for human burials, shall apply. In accordance with Appendix B, Unanticipated Discoveries Plan, the WSA shall notify the NITHPO, the EPA, and the RIHPHC immediately about the discovery and the location. The Rhode Island State Police and the State Medical Examiner will then be notified by the WSA.
- B. After notification provided in accordance with Stipulation I(A), The NITHPO shall be given the opportunity to provide input regarding a course of action and treatment of the remains. The NITHPO shall be given the opportunity to carry out religious ceremonies and rituals attendant upon discovery and re-interment of the remains. This opportunity to provide input and to carry out religious ceremonies and rituals includes the two Native American human burials that were identified beneath Tidewater Drive during the November-December 2015 archaeological investigation. The methodology for the relocation of the human remains and associated materials shall be conducted in accordance with Stipulation IA, and be consistent with the Native American Graves Protection and Repatriation Act (NAGPRA), NAGPRA guidance, the ACHP Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects, and applicable Rhode Island laws.
- C. The methodology for the relocation of the human remains and associated materials will be developed through consultation among the EPA, the WSA, the RIHPHC, and the NITHPO. The methodology will clearly define the roles and responsibilities of the WSA, the NITHPO, and any other parties who may participate in the relocation.

II. PROJECT EXCAVATION FOR MAINLINE INTERCEPTOR, LATERAL SEWERS AND SEWER SERVICE CONNECTION INSTALLATIONS

- A. To mitigate potential effects to historic properties, the WSA will pursue directional drilling as the preferred method for sewer system construction to the extent possible. Certain areas that will require excavation (jack and bore pits, manholes and service connections) will be defined by the WSA with specific boundary limits and identified in a pre-design plan. Prior to construction of the sewer mains and service connections, the WSA will conduct archaeological identification surveys of the excavation boundary limits identified in the preliminary design plans.
- B. The WSA will secure the services of a qualified professional archaeologist (Archaeologist) meeting the Department of Interior's Standards for Archaeology and Historic Preservation, as published in the Code of Federal Regulations, 36 CFR 61, to conduct the archaeological investigations.

- C. The WSA shall provide the opportunity for the NITHPO to monitor the excavation for religious, historical, cultural and burial features during the archaeological identification survey by requesting the NITHPO to designate a Preservation Field Specialist (PFS) for this purpose. The request shall be in writing. The WSA shall provide a copy of the request to the EPA. The request shall provide the NITHPO with 15 calendar days to respond with the designation of a PFS. In the event that the NITHPO designates a PFS, the PFS will coordinate with the WSA and its Archaeologist and will report to the NITHPO. The WSA will request that the NITHPO communicate any questions or concerns to the WSA Executive Director. If the NITHPO fails to respond to the request to provide a PFS within 15 calendar days, WSA shall seek EPA approval prior to moving forward without a PFS.
- D. The Archaeologist will review preliminary design plans for the Project's Mainline Interceptor, Lateral Sewers and Sewer Service Connection areas, including planned boundary limits of all construction-related excavations, and prepare a draft **Work Plan** to identify any archaeological deposits, cultural features and/or human remains that may be impacted by the Project.
- E. The draft **Work Plan** will include, at a minimum:
1. A Scope of Work for the identification, evaluation and documentation of any historic properties/cultural resources which may be present within the pre-design excavation boundary limits.
 2. In the event that evidence of cultural resources is discovered during the pre-design archaeological investigation, the Work Plan will include a provision for shifting the excavation boundary limit to avoid the cultural resource to the extent possible and reasonable.
 3. Specific recommendations for the methods of machine-assisted and/or hand excavation to maximize the early identification, evaluation, and appropriate treatment of any extant cultural resources;
 4. In the event that the NITHPO designates a PFS pursuant to Stipulation II(C), accommodations for monitoring by the PFS of all archaeological identification, evaluation and documentation;
 5. A temporary curation plan, identifying the location for the cataloging, storage, and treatment of all historic properties, recovered or collected until final disposition of such materials is discussed with the NITHPO and agreed upon by the Signatories; and
 6. A proposed schedule for the archaeological identification survey.
- F. The WSA will submit the draft **Work Plan** to the EPA, RIHPHC, and the NITHPO for review and comment. The EPA RIHPHC, and the NITHPO will have 30 calendar days from receipt to provide comments to the WSA. The WSA will consider any comments and recommendations provided by the EPA the RIHPHC and the NITHPO before finalizing the **Work Plan**. In the event that one of the parties to this agreement objects to the WSA's proposed Work Plan, the dispute shall be resolved in accordance with Stipulation VI of this Agreement. The WSA will provide a digital and hard copy of the final **Work Plan** to the Signatories and the NITHPO. All work undertaken in each segment will be consistent with

the final **Work Plan**. The final **Work Plan** may be amended with the written concurrence of all Signatories.

- G. The WSA will provide to each Signatory and the NITHPO one digital copy of the draft **Technical Report** prepared by the WSA's Archaeologist following completion of all necessary field, laboratory, and analytic work. The EPA, RIHPHC, and the NITHPO will have 30 calendar days from receipt to review and comment upon the draft **Technical Report**. The WSA will consider any comments from the other Signatories and NITHPO before finalizing the **Technical Report**. In the event that one of the Signatories objects to the WSA's draft Technical Report, the dispute shall be resolved in accordance with Stipulation VI of this Agreement. The WSA will provide to each Signatory and the NITHPO two hard copies of the **Final Technical Report**.
- H. If contributing elements to the Mill Cove Site or other historic properties are identified during execution of the Work Plan, the WSA's Archaeologist will prepare a draft **Treatment Plan** establishing how the WSA will avoid, minimize or mitigate adverse effects to the historic property/properties. If specific treatments may be completed after project construction without compromising the historic properties, such treatments will be clearly identified in the draft **Treatment Plan** with their proposed dates of completion.
 - 1. The WSA will submit the draft **Treatment Plan** to the Signatories and the NITHPO for review and comment. The Signatories and the NITHPO will have 30 calendar days from receipt to provide the WSA with their comments and recommendations. The WSA will consider the Signatories' and the NITHPO's comments and recommendations and submit the final **Treatment Plan** to all Signatories for their written concurrence. In the event that one of the Signatories objects to the WSA's draft Treatment Plan, the dispute shall be resolved in accordance with Stipulation VI of this Agreement.
 - 2. Upon receipt of the written concurrence of all Signatories, the **Treatment Plan** will govern the scope of the WSA's efforts to resolve any potential adverse effects to historic properties.
 - 3. The WSA will issue final design/construction plans that include final boundary limits of excavation, adjusted where necessary based upon the findings of the pre-design archaeological investigation, to mitigate adverse effects on historic properties.
 - 4. Construction may commence upon completion of the measures stipulated in the final **Treatment Plan**. If the final **Treatment Plan** includes measures to be completed after Segment construction, construction may commence following completion of all other measures.

IV. UNANTICIPATED DISCOVERIES

During construction of the Project if any human remains or historic properties are discovered the WSA will instruct their construction contractor to follow the procedures outlined in the **Unanticipated Discoveries Plan** attached to this document as Appendix B.

V. PUBLIC OUTREACH

In accordance with and as required by the NHPA, the WSA will develop an education and outreach program to convey the results of the archaeological investigations conducted for this Project. The program will be developed in close coordination with the RIHPHC and may include public presentations for the community, information on the WSA website, and one or more written brochures for targeted audiences. WSA will provide the NITHPO with the opportunity to provide input on the program.

VI. DISPUTE RESOLUTION

If at any time during the implementation of the measures stipulated herein should any objection to any such measure or manner of implementation be raised, all signatories will take the objection into account and consult as needed to resolve the objection. If further consultation is not productive and the objection is not resolved, the comments of the ACHP will be sought as stipulated in 36 C.F.R. § 800.2(b)(2). The ACHP may decide to become involved or may be invited to consult by any of the consulting parties as a means of resolving conflicts and completing the Section 106 process.

VII. AMENDMENTS AND TERMINATION

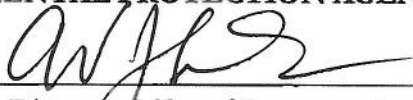
The signatories to this agreement may mutually agree, in writing, to revise this document. Any party to this MOA may terminate it by providing ninety (90) calendar days of notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the EPA will ensure compliance with 36 C.F.R. §§ 800.4 through 800.6 with regard to individual undertakings covered by this MOA.

VIII. EXPIRATION


This Agreement will be null and void if its terms are not carried out within five (5) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

Execution of this MOA by the EPA, and implementation of its terms evidence that the EPA has taken into account the effects of this undertaking on historic properties, afforded the ACHP an opportunity to comment, and is compliant with Section 106 of the NHPA and its implementing regulations.


ENVIRONMENTAL PROTECTION AGENCY, REGION 1

By:  Date: 6/2/17
Acting Director, Office of Ecosystem Protection

WARWICK SEWER AUTHORITY

By:  Date: 5/31/17
Executive Director, Warwick Sewer Authority

RHODE ISLAND HISTORICAL PRESERVATION & HERITAGE COMMISSION

By:  Date: 5/31/2017
State Historic Preservation Officer

Appendix A

Narragansett Indian Tribe – Cultural and Historical Context of the Tribe's Affiliation with the Project Area

The tribal significance for the Narragansett and the entire City of Warwick is to say the least, inseparable. The Narragansett had for centuries utilized Warwickshire, Warwick, Shawomet, Shawomett or Sachimannick, its original name (Sachimannick means Royal Town). It was called that because many of the Sachems were hereditarily attached to the many coves in Warwick. According to Stephen Hopkins who was on the Mayflower's first voyage to Cape Cod, Massachusetts, he had experienced Indians in Jamestown, Virginia. This knowledge would become very useful in Indian hunting. His knowledge of Indians made him a great helper in the effort to kill all deed signers, and he could identify the leadership in different tribes. He says of Miantonomo, "The Pilgrims had no concern with any Indian Prince, excepte, Miantonomi." His knowledge and experience during his time at Jamestown made him very useful to the Pilgrim leadership in Plymouth Colony.

The traditional Shawomett lands had early significance before the arrival of Europeans, and has been continuous throughout history and up until today. The vast ceremonial sites and burials are too numerous to reveal and are of great sheltering from the tribe. We are aware that an early colonial conflict has the mass grave of at least 80 human remains of Narragansett Indian heritage. We feel that Conimicut/Quinimicut Village is an ancient habitation where Narragansett lived and died for millenniums before the first Europeans landed on the shores.

The lands in Warwick were the prime real-estate of the Sixteen Hundreds. The land in Gaspee Point was so desired by the English they were willing to betray Miantonomo to get it and they did. While making his strategic Namquid lands theirs in order to commit the first act against the English thrown by burning the cutter Gaspee.

The heartfelt ties to Warwick are only matched by the ceremonial, cultural historical features and vast human remains of Narragansett ancestors.

APPENDIX B

UNANTICIPATED DISCOVERIES PLAN

***PROCEDURES GUIDING THE DISCOVERY OF UNANTICIPATED HISTORIC
PROPERTIES AND HUMAN REMAINS:
POST-REVIEW DISCOVERIES (36 CFR 800.13)***

Bayside Community Sewer Project

Warwick, Rhode Island

Prepared for

WARWICK SEWER AUTHORITY

Prepared by

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26 Main Street
Pawtucket, Rhode Island 02860



March 2017

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INTRODUCTION

The procedures guiding the unanticipated discovery of cultural resources and human remains detailed herein (“Procedures”) were developed on behalf of the Warwick Sewer Authority (WSA) and in consultation with the State Historic Preservation Officer at the Rhode Island Historical Preservation & Heritage Commission (SHPO), the United States Environmental Protection Agency (EPA), and the Narragansett Indian Tribal Historic Preservation Officer (NITHPO). These Procedures detail the approach that WSA will use to address unanticipated discoveries of archaeological resources during construction activities within the Bayside Community Sewer Project (Project) area of potential effect (APE)¹.

The purpose of archaeological investigations during the planning of the municipal sewerage project (Project) is to determine the presence or absence of historic properties within a project area. These archaeological investigations are conducted in accordance with standards set forth in the Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 306108), as amended (1976, 1980, 1992, 1999, 2014), and implementing regulations of the Advisory Council on Historic Preservation (ACHP) (36 CFR 800), specifically, those procedures regarding “post-review discoveries” as outlined in 36 CFR 800.13. All work is undertaken pursuant to the *Secretary of the Interior Standards for Archaeology and Historic Preservation* (48 Federal Regulations 44716-42 [1983]) and the applicable laws and regulations pertaining to the cultural resources and human remains of Rhode Island.

These Procedures have been developed in consultation with the SHPO and will be followed in the event any archaeological resources and/or human remains are encountered during construction of the Bayside Community Sewer Project. The stipulations of the Procedures as set forth below are in accordance with the current standards and guidelines elaborated in the following standards/guidelines and laws/regulations:

Standards/Guidelines and Laws/Regulations for Unanticipated Historic Properties and Human Remains

Federal

- Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108);
- Secretary of the Interior’s Standards for Archeology and Historic Preservation (48 CFR 44716-42);
- Advisory Council on Historic Preservation (ACHP): *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects*, Advisory Council February 23, 2007); and

¹ In these Procedures, when the term “WSA” is used, the term may also refer to WSA acting through its contractors or consultants.

Rhode Island

- Rhode Island SHPO: *Performance Standards and Guidelines for Archaeological Projects (Standards for Archaeological Survey)* (2015); and
- Rhode Island SHPO: *Rules and Regulations Pertaining to Registration and Protection of Historic Cemeteries* (2012); and
- Rhode Island General Laws, Title 23, Chapter 18, Section 11(2)(c) (Rhode Island Cemeteries Act); and
- Rhode Island General Laws, Title 23, Chapter 18, Section 13 (Rhode Island Cemeteries Act).

Consultation with Consulting Parties and Indian Tribes

As part of the Bayside Community Sewer Project, WSA and the U.S. Environmental Protection Agency (EPA) have initiated contact with the Rhode Island SHPO, and the Narragansett Indian Tribe, represented by the Narragansett Indian Tribal Historic Preservation Officer (NITHPO) and his designated representatives. All contact information for the SHPO, consulting parties, and the NITHPO is included at the end of this document. In the event any archaeological resources and/or human remains are encountered during construction of the Bayside Community Sewer Project, WSA (or its contractor) and WSA's Qualified Professional Archaeologist (Archaeologist) will contact the relevant parties.

Unanticipated Archaeological Discovery Protocol

Cultural Resources Training

The identification of archaeological resources requires basic training in order to recognize potential sites. WSA requires that its employees and contractors have a basic understanding of the nature of cultural resources. As a result, all WSA inspectors and construction contractor personnel will be given basic training in cultural resource site recognition. The Procedures will be included in all relevant construction contractor documents.

The purpose of this training will be to review WSA's commitments regarding cultural resources compliance and to provide an overview of the general cultural history of the project site, so that both WSA and construction personnel will be aware of the kinds of archaeological resources that may be encountered in the field. In addition, the training program will emphasize the exact procedures to be followed, as outlined in these Procedures, regarding actions to be taken and notification required in the event of an archaeological resource discovery, such as a discovery of human remains, during construction.

The training will be designed to ensure that WSA personnel and construction contractors understand the extent of the archaeological survey program that has been performed for the Bayside Community Sewer Project and are fully aware of the distinction between sites that have been located and "cleared" under the cultural resource program (i.e., determined to be non-

significant after different levels of investigation or sites that have already undergone data recovery) and new discoveries during the construction process.

Notification Procedures

WSA is committed to the protection and preservation of cultural resources, in accordance with federal and state legislation. WSA recognizes that – despite the intensive cultural resource investigations that are typically performed prior to project construction – it is nonetheless possible that previously unknown cultural resource sites could be discovered during the project construction process, particularly during excavation activities. WSA recognizes the requirement for compliance with federal and state regulations and guidelines regarding the treatment of human remains, if any are discovered. The following details the plan that will be followed in the event that new cultural resource sites or human remains are discovered during the construction process.

The protocol to follow in the event of an unanticipated discovery contains the following steps:

- The Contractor will immediately notify the WSA Executive Director of an unanticipated discovery.
- The Executive Director will direct a *Stop Work* order to the Contractor's Site Foreman to flag or fence off the archaeological discovery location and direct the Contractor to take measures to ensure site security. Any discovery made on a weekend or overnight hours will be protected until all appropriate parties are notified of the discovery. The Contractor will not restart work in the area of the find until the Executive Director has granted clearance.
- The Contractor will indicate the location and date of the discovery on the project plans and will notify the Archaeologist, who will undertake a site visit or otherwise coordinate an on-site archaeological consultation.
- The Archaeologist will conduct a preliminary assessment of the find to determine if it is a potentially significant archaeological site.
- If the find is determined by the Archaeologist to not be a potentially significant archaeological site, the Executive Director will notify the Contractor's Work Foreman to resume work.
- If the Archaeologist determines the find is a potentially significant archaeological site, WSA will immediately notify EPA and the SHPO of the find; if the potentially significant archaeological site appears to be of tribal origin or significant, notification shall also be provided to the NITHPO; notifications will be made by WSA within 4 working hours of discovery.
- WSA will direct the Archaeologist to begin a more detailed assessment of the find's significance and the potential project effects. The Archaeologist will dispatch an archaeological team to the site to determine the nature and extent of the archaeological resources; WSA and the Archaeologist will ensure that the team has full access to the required site area and be accommodated by the Contractor to complete this investigation in the most expeditious manner possible.

- The Archaeologist will notify WSA and EPA of the team's findings and recommendations, whether the find is assessed not to be significant and request approval for construction to proceed, or describe a proposed scope of work for evaluating the significance of the find and evaluating project effects.
- The Archaeologist will convey this information to the SHPO, NITHPO and relevant consulting parties; at the discretion of the WSA and the SHPO, a meeting may be held to discuss options and recommendations.
- If the resource is determined to be a significant archaeological resource and it is threatened by further project development, the Archaeologist, at the direction of WSA and in consultation with the, EPA, SHPO, NITHPO, and relevant consulting parties, will develop a site mitigation plan.
- Upon direction by EPA, the SHPO, and WSA, the Archaeologist will implement the archaeological mitigation plan.
- A meeting or site visit may be held with EPA, WSA, SHPO, NITHPO, Archaeologist, and other appropriate parties once the field investigation for site mitigation has been completed to review the work accomplished.
- Duration of any work stoppages will be contingent upon the significance of the identified archaeological resource(s) and consultation with EPA, WSA, the SHPO, NITHPO and the Archaeologist, and other appropriate parties to determine the appropriate measures to avoid, minimize, or mitigate any adverse effects to the site.

Unanticipated Discovery of Human Remains Protocol

This protocol is specifically designed for circumstances where human remains are encountered during the construction of the Bayside Community Sewer Project.

WSA and its contractors will treat any human remains encountered during the Bayside Community Sewer Project in a manner guided by the policy statement adopted by the ACHP: see *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects*, (Advisory Council February 23, 2007) ("ACHP Policy Statement"), and by the relevant state laws and guidelines. The ACHP policy statement recommends that, when burial sites, human remains, or funerary objects will be or are likely to be encountered in the course of Section 106 review, a federal agency should adhere to the following principles:

Principle 1: Participants in the Section 106 process should treat all burial sites, human remains, and funerary objects with dignity and respect.

Principle 2: Only through consultation, which is the early and meaningful exchange of information, can a federal agency make an informed and defensible decision about the treatment of burial sites, human remains, and funerary objects.

Principle 3: Native Americans are descendants of original occupants of this country. Accordingly, in making decisions, federal agencies should be informed by and utilize the special expertise of Indian tribes and Native Hawaiian organizations in the documentation and treatment of their ancestors.

Principle 4: Burial sites, human remains, and funerary objects should not be knowingly disturbed unless absolutely necessary, and only after the federal agency has consulted and fully considered avoidance of impact and whether it is feasible to preserve them in place.

Principle 5: When human remains or funerary objects must be relocated, they should be removed carefully, respectfully, and in a manner developed in consultation.

Principle 6: The federal agency is ultimately responsible for making decisions regarding avoidance of impact to or treatment of burial sites, human remains, and funerary objects. In reaching its decisions, the federal agency must comply with applicable federal, tribal, state, or local laws.

Principle 7: Through consultation, federal agencies should develop and implement plans for the treatment of burial sites, human remains, and funerary objects that may be encountered.

Principle 8: In cases where the disposition of human remains and funerary objects is not legally prescribed, federal agencies should proceed following a hierarchy that begins with the rights of lineal descendants, and if none, then the descendant community, which may include Indian tribes and Native Hawaiian organizations.

WSA and its contractors will use the following Procedures in the event that human remains are discovered during construction of the Bayside Community Sewer Project:

- The Contractor will immediately notify the Executive Director of an unanticipated discovery.
- The Executive Director will direct a *Stop Work* order to the Contractor's Site Foreman to flag or fence off the archaeological discovery location and direct the Contractor to take measures to ensure site security. Any discovery made on a weekend or overnight hours will be protected until all appropriate parties are notified of the discovery. The Contractor will not restart work in the area of the find until the Executive Director has granted clearance.
- The Executive Director will indicate the location and date of the discovery on the project plans and notify WSA and EPA.
- At all times human remains must be treated with the utmost dignity and respect. Human remains and/or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- WSA will immediately notify EPA, NITHPO and SHPO of the find, as well as the Archaeologist, the local police, and the Rhode Island State Medical Examiner's Office.
- WSA will provide an opportunity for local law enforcement and, if necessary, a representative of the chief Medical Examiner's Office, to visit and inspect the site to determine whether the site constitutes a crime scene.

- If it is declared a criminal matter, the Archaeologist will have no further involvement and the decision to declare it a *Cleared Site* for construction will be made by the appropriate legal authorities.
- If the find is determined not to be a criminal matter, WSA will comprehensively evaluate the potential to avoid and/or minimize the Project's effects on the human remains.
 - If human remains are determined to be Native American, the remains will be left in place and protected from further disturbance until a site-specific work plan for their avoidance or removal can be generated. According to the ACHP Policy Statement, "removal of human remains or funerary objects should occur only when other alternatives have been considered and rejected." The Archaeologist will contact the SHPO and NITHPO to develop a plan of action that is consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) guidance, the ACHP Policy Statement, and applicable Rhode Island laws.
 - If human remains are determined to be non-Native American, the remains will be left in place and protected from further disturbance until a site-specific work plan for their avoidance or removal can be generated. Avoidance is the preferred choice of the SHPO. Consultation with the SHPO and other appropriate parties will be required to determine a plan of action.

Provisions for Site Security

Provisions must be made to secure any area containing, or suspected of containing, human remains from unauthorized entry to the site. If field assessment of human remains or related excavations cannot be completed before the end of a work day, WSA will provide a security guard to provide constant monitoring of the burial location to prevent unauthorized entry during off-work hours.

If relocation is necessary, temporary work shelters will be erected over individual (or small groups of) graves while they are in the process of being excavated and their remains removed. The shelters will permit adequate interior work space, but will prevent any outside persons from viewing the remains or the relocation process. The shelters will also permit the relocation team to work in most if not all weather conditions.

Public Outreach

Due to the sensitive nature of the potential remains, WSA will assume all responsibility and authority for making public notifications of the work being conducted. As part of this work plan, the archaeologist will be requested by WSA to provide information on the progress of the investigation for the purposes of public notification and/or attend press conferences or field meetings for that purpose. All public outreach conducted as part of the relocation project will be performed at the request and direction of WSA.

FEDERAL AGENCY CONTACTS

EPA - New England Region 1
 5 Post Office Square, Suite 100
 Mail Code OEP06-3

Contact: Michael Stover, PE
Indian Program Manager
Tel: (617) 918-1123
Email: stover.michael@EPA.gov

MEDICAL EXAMINER AND POLICE CONTACTS

Rhode Island

Rhode Island Office of the Chief Medical Examiner
48 Orms Street
Providence, Rhode Island 02904
Contact: Alexander Chirkov, MD Medical Examiner
Tel: (401) 222-5500

State Police

Appropriate State Police Barracks
Contact: Tel: 911

STATE HISTORIC PRESERVATION OFFICE CONTACTS

Rhode Island Historical Preservation & Heritage Commission
Old State House
150 Benefit Street
Providence, Rhode Island 02903
Contact: Timothy Ives, Archaeologist
Tel: (401) 222-4139
Email: timothy.ives@preservation.ri.gov

Charlotte Taylor, Archaeologist
Tel: (401) 222-4140
Email: charlotte.taylor@preservation.ri.gov

FEDERALLY RECOGNIZED TRIBAL CONTACTS

Narragansett Indian Tribe
Narragansett Indian Longhouse
4425D South County Trail
Charlestown, Rhode Island 02813
Contact: John Brown, III, Tribal Historic Preservation Officer
Tel: (401) 539-1190
Email: tashtesook@aol.com